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AN
INQUIRY
INTO THE
LEGAL MODE
for OF *Hargrave*
SUPPRESSING RIOTS.
WITH
A CONSTITUTIONAL PLAN
OF
FUTURE DEFENCE.

Published in July 1780.

By WILLIAM JONES, Esq; of the Middle Temple. *K*

THE SECOND EDITION, CORRECTED.

To which is now added

A SPEECH on the Nomination of Candidates
to represent the County of MIDDLESEX, 9th
Sept. 1780, &c.

L O N D O N,

Printed for C. DILLY, in The Poultry.

MDCCLXXXII.

**Res videas quo modo se habeant : orbem terrarum, imperiis
distributis, ardere bello : urbem sine legibus, sine judiciis,
sine jure, sine fide, relictam direptioni et incendiis.**

CIC. Epist. ad Fam. 4. n.

A LETTER to THOMAS YEATES, Esq.
 Secretary to the Society for Constitutional
 Information.

S I R, Lamb's Building, Temple, 25 April, 1782.

"IT was not till within these very few days that I received, on my return from the circuit, your obliging letter, dated the 18th of March, which, had I been so fortunate as to receive it earlier, I should have made a point of answering immediately.

"The Society for Constitutional Information, by electing me one of their members, will confer upon me an honour, which I am wholly unconscious of deserving, but which is so flattering to me, that I accept it with pleasure and gratitude: I should indeed long ago have testified my regard for so useful an institution, by an offer of my humble services in promoting it, if I had not really despaired, in my present situation, of being able to attend your meetings as often as I should ardently wish.

"My future life shall certainly be devoted to the support of that excellent Constitution, which it is the object of your Society to unfold and elucidate; and from this resolution, long and deliberately made, no prospects, no connections, no station here or abroad, no fear of danger or hope of advantage to myself, shall ever deter or allure me. A form of govern-

government so apparently conducive to the true happiness of the community, must be admired as soon as it is understood, and, if Reason and Virtue have any influence in human breasts, ought to be preserved by any exertions, and at any hazard. Care must now be taken, lest, by reducing the *regal* power to its just level, we raise the *aristocratical* to a dangerous height; since it is from the *people* alone that we can deduce the obligation of our laws and the authority of magistrates; on the *people* depend the welfare, the security, and the permanence of every legal government; in the *people* must reside all substantial power; and to the *people* must all those, in whose ability and knowledge we sometimes wisely, often imprudently, confide, be always accountable for the due exercise of that power, with which they are for a time intrusted. If the properties of all good government be considered as duly distributed in the different parts of our limited republick, *goodness* ought to be the distinguishing attribute of the crown, *wisdom* of the aristocracy, but *power* and *fortitude* of the *people*. May justice and humanity prevail in them all!

I am, Sir,

Your very faithful

and obedient servant,

W. JONES."

A N

A N
I N Q U I R Y
I N T O T H E
L E G A L M O D E
O F
S U P P R E S S I N G R I O T S.

IT has long been my opinion, that, in times of national adversity, those citizens are entitled to the highest praise, who, by personal exertions and active valour, promote at their private hazard the general welfare; that the second rank in the scale of honour is due to those, who, in the great council of the nation, or in other assemblies legally convened, propose and enforce with manly eloquence what they conceive to be salutary or expedient on the occasion; and that the third place remains for those persons, who, when they have neither a necessity to act, nor a fair

fair opportunity to speak, impart in writing to their countrymen such opinions as their reason approves, and such knowledge as their painful researches have enabled them to acquire.

With these restrictions, the sword, the tongue, and the pen, which have too often been employed by the worst passions to the worst purposes, may become the instruments of exalted virtue; instruments, which it is not the right only, but the duty, of every man to use, who can use them; paying always a sacred regard to the laws of that country, which he undertakes to defend, to advise, or to enlighten.

A sense of this duty and a consciousness of this right have impelled me, with no views, as it will be readily believed, of ambition or interest, much less from any factious motive, to take up that instrument, which I have stated as the least honourable of the three, and to present the publick with a few considerations on a subject no less interesting at the present hour than important to all future ages.

Having unhappily been a vigilant and indignant spectator of the late abominable enormities; having seen the senate besieged, and the senators insulted; the laws of our country defied, and the law of nations violated; having beheld the houses of our truest patriots and most respectable magistrates either destroyed, assailed, or menaced; having passed a whole night encircled by the blazing habitations of unoffending individuals, and by the flames of those edifices

fees which publick justice had allotted to various classes of offenders; having lamented over a great metropolis exposed for many days to the fury of a licentious rabble; having believed the noblest commercial City in the world to be in danger of a second conflagration; having in vain sought access to the courts at Westminster in full term, and to the houses of parliament in full session; having, in a word, been witness to horrors, all the concurrent causes of which are not easy to be known, and all the consequences of which are less easy to be predicted; I could not but see at length, with a mixed sensation, between anguish and joy, the vigorous and triumphant exertions of the executive power; and I admitted the necessity of those exertions, whilst I deplored it.

Every well-disposed man, and lover of tranquillity, must have rejoiced, that, on the ninth of June, the peaceable and terrified inhabitants of this noble Capital might enjoy repose; that the valuable effects, which many had removed, and some had even buried, might be replaced; that the artisan might resume his implements, and the student his books; that justice had reascended her seat; and that order was succeeding to confusion, harmony to discord; but every honest man, and lover of his country, must have grieved, that a whole week was then before us, in which the necessary adjournment of the Commons, who would otherwise have been deliberating on the state of the metropolis and the kingdom, had left us

under a power, which, whatever it might be in form and in effect, was, in truth and substance, dictatorial.

In this awful interval a question occurred to me, which must naturally have presented itself to many others: "Whether the still-subfisting laws and genuine constitution of ENGLAND had not armed the *civil state* with a power sufficient, if it had been previously understood and prepared, to have suppressed ever so formidable a riot without the intervention of the *military*."

If no such power legally existed in the state, our system, I thought, must be defective in a most essential point; since no people can be really and substantially free, whose freedom is so *precarious*, in the true sense of the word, as to depend on the protection of the soldiery; and even our protectors, who for several days possibly could not, but certainly did not, act at all, might have been necessarily called away, in the most dangerous moment, to defend our coasts and maritime towns: if, on the other hand, such a power of self-protection did exist, our laws, I concluded, must have been disgracefully neglected, and ought to be restored to full vigour and energy.

A very short inquiry enabled me to answer the question, at least to my own satisfaction, *in the affirmative*; and it is the result of this inquiry, which I now request the publick to accept with the indulgence due to an occasional production, and with the attention due to a subject of general importance.

This

This then is the proposition, which I undertake to demonstrate : “ That the common, and statute, laws
 “ of the realm, in force at this day, give the *civil*
 “ state in every county a power, which, if it were perfectly understood and continually prepared, would
 “ effectually quell any riot or insurrection, without
 “ assistance from the *military*, and even without the
 “ modern riot-act.”

To this proposition I shall strictly, and, as far as I am able, logically confine myself; avoiding all parade of legal or antiquarian learning, and omitting all such disquisitions as might answer the purpose of ostentation, which I disdain, but not of utility, which alone I seek : should the curious and intelligent reader be desirous of investigating the powers of magistrates and of courts in recording riots and punishing rioters, and of tracing the history of our ancient and modern laws for the preservation of publick tranquillity, from that of king INA to that of GEORGE the First, he will receive ample information from the various books of authority, which I shall have occasion to cite in the course of my argument.

It is in every one's mouth, that, on all violent breaches of the peace, the sheriff of the county is not only authorized but commanded to raise the *Posse Comitatus*, and forcibly to suppress the tumult; but, if most of those, who use this expression, will examine their own minds, they will presently perceive, that they utter words, which convey to them no

distinct idea, and that the *power of the county*, like many other *powers* in nature and jurisprudence, is very ill ascertained, and very imperfectly comprehended. Logicians give us an admirable rule, “that we should seek after a clear precise and complete conception of things, as they really exist in their own nature and in all their parts, and should not always imagine that there are ideas, because there are words [a]:” let us apply this rule to the case before us, and endeavour to form a luminous, fixed, comprehensive notion of the *power* in question; without supposing that we comprehend it, merely because we know, that, besides its *Latin* name, it is called in Norman French, *Poiar del Countee*, and sometimes, *Aide del pais* [b].

We cannot begin our investigation under a more certain or more respectable guide, than Chief Justice FINEUX, whose words I shall transcribe from that most venerable repository of genuine *English* wisdom, the Year books [c]: “At the beginning,” says that learned judge, “all the administration of justice was in one hand, namely, in the Crown; then, after the multiplication of the people, that administration was distributed into counties, and the *power* was committed to a deputy in each county, namely, the Viscount, or Sheriff; who was the King’s de-

[a] Watts, part I. chap. vi.

[b] Crompt. *Just.* 124—157, b. Edit. 1617.

[c] 12 Hen. VII. 17.

“ puty to preserve the peace; and thus it is, that all
 “ people must, in obedience to him, be *ready* in de-
 “ fence of the realm, when enemies come: thus too
 “ was he assigned to be a conservator of the peace,
 “ to punish malefactors, to defend the realm when
 “ enemies invade it, to be attendant on the King in
 “ war-time, and to cause all people in his county to
 “ go with the King to defend the land against
 “ enemies.”

Who the people are, that the laws of England re-
 quired, and still require, to be *ready* and obedient
 to the sheriff on all occasions of publick disturbance,
 we learn from the judicious antiquary, LAMBARD,
 who cites and adopts the opinion of Mr. Marrow
 delivered in a work, which appears to have been a
 reading on the statute 13 Hen. IV: His opinion was,
 “ that the justices of the peace, sheriff or under she-
 “ riff, ought to have the aid and assistance of all
 “ knights, gentlemen, yeomen, labourers, servants,
 “ apprentices, and likewise of wards, and of other
 “ young men above the age of fifteen years; be-
 “ cause all of that age are bound to have *harnesse*, or
 “ armour, by the statute of Winchester [*d*].”

What effect the subsequent repeal of the statutes
 of armour might have on the reason assigned by Mr.
 Marrow for his opinion, it is needless to inquire; for
 it seems obvious, that the statutes of JAMES I. (*e*) re-
 moved the *necessity* only, and not the *propriety*, of hav-

[*d*] Lamb. Eiren. 316. 13 Edw. I. st. 2. c. 6.

[*e*] 1 Ja. I. c. 25. s. 46. 21 Ja. I. c. 28. s. 11. (44.)

ing arms, or, to use the very words of the old act, *armure pur la pees garder*; and the doctrine in *Lambard* is generally understood to be law [f]. The passage above-cited appears, however, to have misled the great commentator on the Laws of England, who seems to have collected from it, that none were bound to obey the summons of the sheriff, but persons *under the degree of nobility* [g]; whereas the patent of assistance, cited by *Dalton* [h], commands barons, earls, and dukes, to be *auxiliantes et respondentes* to the sheriff in all things belonging to his office.

The power of the county, therefore, includes the whole *civil* state, from the duke to the peasant; while the *military* state, *as such*, forms no part of that power, being under a different command, and subject to a different law; but, as every soldier in England is at the same time a citizen, he is authorized and perhaps bound, when under no particular orders or at no particular station, to exert himself, like any other good subject, in the suppression of tumults, the prevention of felony, and the apprehension of the rioters or felons. This I mean: when the soldiery, not being upon military duty, happen to be present at a riot, and in their civil capacity forcibly suppress it, their act is not only legal but laudable; and the colour of their clothes, or the nature of their

[f] Dalt. S. c. 95. — J. c. 82. p. 198. Edit. 1795.

[g] 1 Comm. 344. 4 Comm. 122.

[h] S. c. 2. — Crompt. *Just.* 202, b. Reg. 295, a. 2 Inst. 194.

arms, make no kind of difference ; but, when they are *in truth* called out by the executive magistrate, and are *in fact* no more than instruments in the hands of their commanders, their acts can only be justified by that NECESSITY which always *defends what it compells*, which for the time supercedes all positive law, but the real existence of which a jury must afterwards determine, unless the legislature should, in their wisdom, be pleased to declare it. For this distinction I can produce no written authority ; but it seems consonant to reason as well as truth.

This power of the county, of which we may now begin to form a distinct idea, is mentioned, as well known and well understood, in a variety of statutes, which were confirmatory of the common law ; and some parts of which I shall cite in the original languages, how barbarous or inelegant soever they may appear to a classical eye.

The stat. Westm. 1. c. 17. ordains, “ *qe le vis-*
 “ *counte ou le bailiff, prise ove luy poyer de son*
 “ *countee, ou de sa baille, voit essayer de faire le*
 “ *plevin des averes a celuy qe prit les averes.*”
 “ And that of Westm. 2. c. 39. is more peremptory
 in cases of resistance to the execution of civil process :
 “ *Multoties etiam dant responsum, quod non potue-*
 “ *runt prosequi præceptum regis propter resistantiam*
 “ *potestatis alicujus magnatis, de quo caveant vice-*
 “ *comites de cætero, quia hujusmodi responsio mul-*
 “ *tum redundat in dedecus domini regis ; et, quam*
 “ *cito*

“ citò ballivi sui testificantur, quòd invenerunt hu-
 “ jufmodi refiftentiam, ftatim omnibus omiffis, af-
 “ fumpto fecum *poſſe comitatús* fui, eant in propriâ
 “ perfonâ ad faciendam executionem.” By the 17
 Rich. II. c. 8. it is enacted, that, in caſe of any
 tumult or diſorder, “ a plus toſt qe viſcontz et
 “ autres miniſtres le roi poent ent avoir coniffance,
 “ *ove la force del countee et pais*, ou tiel cas aviegne,
 “ ilz mettent deſtoubance encontre tiel malice *ove*
 “ *tout leur poair*, et preignent tielx meſſefours, et
 “ les mettent en priſone tanqe due execution de leie
 “ ſoit fait de eux, et qe touz ſeignurs et autres liges
 “ du roialme ſoient entendantz et aidantz, *de tout*
 “ *leur force et poair*, as viſcontz et miniſtres avant
 “ ditz.”

Again: by the 13 Hen. IV. c. 7. “ Ordeignez
 “ eſt et eſtabliz, qe, ſi aucun riot aſſemblée ou rout
 “ des gentz encontre la loie ſe face en aucune partie
 “ del roialme, les juſtices de paix, trois ou deux de
 “ eux a meyns, et le viſcont ou ſouth viſcont del
 “ countee, ou tiel riot aſſemblée ou rout ſe ferra
 “ enapres, *veignent ove le poair del countee*, ſi beſoigne
 “ ferra, pur eux areſter, et eux areſtent.” In the
 conſtruction of this laſt ſtatute it has been holden[i],
 that, although it ſpeak of *three* or *two* juſtices at
 leaſt, yet *one* juſtice may raiſe the power and ſup-
 preſs a riot; for *it is a beneficial law*, ſaid FINEUX,
and was enacted for the prevention of miſchief, which

[i] 14 Hen. VII. 10. Crompt. Juſt. 46. b. 62, a. 157, b.
 Edit. 1617.

might ensue, if a justice were to wait for others. It has also been adjudged, that, under the word *ministers*, in the stat. 17 Rich. II. c. 8. justices of peace are comprised [k]; and so are *constables*, by the opinion of *Fitzherbert* cited by *Crompton*, and confirmed by the Yearbook 3 Hen. VII. 10; where it is laid down, that “constabularii villæ super affraiam possunt levare populum [l].”

We may therefore conclude, that, in all cases of tumult and insurrection, the sheriff, or other *minister*, may and ought to make *proclamation*, commanding all such persons, as constitute the power of the county, to assemble and assist him [m]; or he may send a particular *warning* or *summons*, for the same purpose, to every individual of the *posse*, who must attend such summons under pain of a heavy fine and imprisonment; for, by the stat. 2 Hen. V. c. 8. it is provided, “que les lieges du roi esteantz sufficeantz pur travailler en le countee, ou tielx routes assemblez ou riotes sont, soient assistantz as justices, commissioners, viscont, & soutez-viscont, de mesme le countee, qant ilz ferront raisonablement garniz, pur chivacher, ove les ditz justices, commissioners, et viscont ou soutez-viscont en aide de resistance de tielx riotes routes et assemblez sur peine de imprisonment et faire fyn et ranceon al roi;” And the offence of neglecting to join the power of the

[k] Crompt. *Just.* 46. a. 62. a. 158. a.

[l] See 1 Ha. P. C. 495, 588.

[m] Dalt. S. c. 95. J. c. 82.

county, after such reasonable warning, is ranked by Sir *William Blackstone* under the class of *contempts against the king's prerogative* [n].

Having fixed our ideas concerning the nature of this legal power, the mode of raising it, and the punishment of a criminal neglect to join it, let us consider, first, by the help of reason only, what corollaries necessarily follow the doctrine, which we have expounded; and, next, inquire whether authority and reason, which lord *Coke* justly calls *the two faithful witnesses in matter of law* [o], coincide on the question before us; as they indubitably will, unless either our previous ratiocination be illogical, or the minds of ancient and modern lawyers have taken a bent from the prejudices of their respective ages.

From the obligation of the sheriff, or other minister, to assemble the power of his county for the suppression of any rebellion, insurrection, riot, or affray, and for the repelling of invading enemies; from the duty incumbent on every man of sufficient years and strength to associate himself with the power so assembled, and from the principles of natural justice, which will neither *require men to do impossible things*, nor *refuse them the means of performing what they are commanded to perform*; from these obligations and these principles it instantaneously follows: First; That the sheriff or other peace-

[n] 4 Comm. 122.

[o] 1 Inst. Pref.

officer is bound to raise *such* a power as will effectually quell the tumult either really existing or justly feared.

Secondly ; That the power so raised may and must be armed with such *weapons*, and act in such *order*, as shall enable them totally to suppress the riot or insurrection, or to repel the invaders.

Thirdly ; That, in the use of such weapons, the power may justify the *charging*, *wounding*, or even *killing*, the rioters or insurgents, who persist in their outrages, and refuse to surrender themselves.

Fourthly ; That the power of every county ought at all times, but especially in times of danger, to be *prepared* for attending the magistrate, and to know the *use* of such weapons, as are best adapted to the suppression of tumults.

Fifthly ; That, since the *musket* and *bayonet* are found by experience to be the most effectual arms, all persons, who constitute the power of a county, are bound to be competently skilled in the use of them.

Sixthly ; That, since the only safe and certain mode of using them with effect is by acting *in a body*, it is the duty of the whole civil state to know the platoon-exercise, and to learn it in companies.

As *no authority*, according to CHARRON, *can stand without reason*, so we find, by constant experience, that no reason can surmount the passions and prejudices of men without the aid of authority ; and I

am happy in believing, that both of them perfectly coincide in support of the foregoing propositions: first, therefore, I shall prove them by citing cases, which have been solemnly adjudged, together with the opinions of learned lawyers, whose works are much respected in our courts of justice; and, next, I shall inquire, whether those cases and opinions have been over-ruled or shaken by any subsequent decisions, or acts of the legislature.

The earliest resolution upon the subject, that has occurred to me, was in a case, which the very learned, and judicious *Brook* thought *worthy of note* [p] in his time, and which, in the present time, deserves peculiar attention. It is reported in *French* in the first page of the Yearbook 3 Hen. VII. and is manifestly the same with that afterwards abridged in an imperfect *Latin* note printed, out of its place, in the tenth page of the same book; although *Brook* seems to have considered them as different, or rather not to have observed their identity; for, in another title of his Abridgement [q], he gives them in separate articles, without melting both parts of the Yearbook together, as I propose to do; by which means I shall extract the whole case, and form one consistent state of it.

JOHN DEINS had been outlawed in the county of *Suffolk* for felony; and, having brought a writ of error to reverse the outlawry, had obtained a *Non*

[p] Bro Abr. tit. Office et Officer, 23.

[q] Riots, 2. 3.

Molestando, which he delivered to the escheator, *John Lenthorp*; who, nevertheless, seized and took away his effects. Upon this, *Deins* replevied; and *EDMUND BEDINGFIELD*, the sheriff, issued his precept to *Thomas Gire*, his bailiff, *jurus et conus*, together with *Roger Hopton*, *Edmund Heningham*, and three other persons, directing them to take the goods of the plaintiff out of the escheator's possession: accordingly, the bailiff and his party took forcibly from *Lenthorp* an hundred sheep, which they delivered to *Deins*; and, in order to make delivery of the goods and cattle which remained, they assembled all the inhabitants of five adjacent vills; who, in number three hundred, arrayed in a warlike manner, and armed with brigandines, jackets of mail, and GUNS, united and associated themselves, and marched [r] to the place where the cattle were detained; but did not proceed to any other act of violence.

For this imagined breach of the peace, and military array, an indictment was preferred in the King's Bench against the plaintiff in replevin, the sheriff and his bailiff, and the persons who had assisted them; but the court unanimously adjudged, that the indictment was void; founding their judgement, as it seems, on the reasons advanced by serjeant *Keble*, whose argument it may be proper to state at large.

[r] *Modo guerrino arraiati se univerunt et associaverunt, et iter suum arripuerunt.* 3 Hen. VII, 1. 10.

“ As

“ As to the plaintiff in replevin, said he, no wrong
 “ was committed by him ; for the escheator, when
 “ he took the goods, after the *Non Molestando* had
 “ been delivered to him, acted unlike an officer ;
 “ since it was his duty, in that instant, to surcease
 “ his process : *Deins*, therefore, was perfectly justi-
 “ fied in complaining to the sheriff, and must conse-
 “ quently be discharged from this indictment.

“ Nor did the sheriff transgress his duty in exe-
 “ cuting the replevin ; for, when the party came to
 “ him, he could not know, whether he was an out-
 “ law or not ; or whether or no the escheator had
 “ seized the cattle in the King’s right ; which ought
 “ to have been shown by the King’s officer. The
 “ bailiff too must be discharged ; for the servant is
 “ in the same condition with the master ; and, as the
 “ sheriff cannot do every thing himself, his deputy
 “ must have the same power with him.

“ In regard to his assembling three hundred men,
 “ *that was no illegal act* [s] ; for every man is bound
 “ to assist the sheriff and his bailiff ; to support him
 “ in executing the King’s writs ; and to give him aid
 “ in all cases of need ; *and this by common law and*
 “ *common reason*, notwithstanding the statutes of
 “ Westminster the first and second. So, if *any man*
 “ refuse to assist the sheriff at his *request*, he shall be

[s] *Ceo nest encontre la ley* : So Brook reports his words,
tit. Riots, 2.

“ fined,

“fined, whether it be to execute procefs, or to apprehend felons.”

The Court agreed, that the bailiff had as good a right to raife the power as the fheriff himfelf; becaufe it is all one office and one authority.

It was urged, “that, if men affemble with arms “and *do nothing*, it fhall be intended, that they affembled with a bad defign;” but it was answered, that in fome cafes the prefumption might be juft; in others, not: thus the ufe of armour on particular occafions, as on Midfummer eve in London, and at other times for fport, is not punifhable; and, here, the caufe of the affembly appears, *namely to execute a replevin*. Even if they had acted, yet their affembly was lawful in the beginning; and fuch affemblies are not illegal as are not *to the terror of the people of our Lord the King*; which words ought to be in every indictment for an unlawful affembly.

Another point was touched upon by the king’s ferjeants: “that the fheriff cannot take with him “*fo many* armed men, but only a *reasonable* party;” to which it was answered, that, if he were fo reftained, he might be in great jeopardy and peril of his life; and for this reafon, *he may take as many as he pleafes at his own difcretion*.

Laftly, it was argued on the ftatute of Weftm. 2. c. 39 [t], that the fheriff might raife the power of

[t] The ftatute of *Marlbridge*, c. 21. feems here to be meant; the words *post querimoniam factam* not being ufed in ftat. Weftm. 2. See Bro. *tit. Parliament*, 108. Crompt. *Just.* 158. a.

his county *after complaint made*, and *not before*; but the judges held, that he might raise it before *by the common law*.

This case (which, for convenience in citation, I shall call *Bedingsfield's Case*;) is irresistibly strong in support of my *first* and *second* corollaries; for, although there seems to have been some doubt at first in the minds of the judges, as it was merely the execution of *civil process*, yet, if the armed men had marched in array for the purpose of *apprehending felons*, there would have been no debate on the legality of the act; and, after an argument at the bar, the former doubt was entirely removed.

The next is the case of a riot at *Drayton Bassett* in *Staffordshire*, determined in the Star-chamber in the twenty-fourth of Elizabeth, and cited more than once by *Crompton* [u]; who says that the court resolved, 1. That, if the two justices, nearest to the place where the riot is committed, do not act as they are required by stat. 13 Hen. V. [w] c. 7. each of them shall pay an *hundred* pounds; and the other justices of the same county, where the tumult was, shall be fined for not suppressing it, *if there was any default in them*. 2. That the sheriff and justices of peace may take as many men in armour as are necessary, WITH GUNS, and so forth, and *kill the rioters*, if they will not yield themselves; for the stat.

[u] *Crompt. Just.* 46. b. 124. b. &c. *Crompt. Jur.* 32. a. cited in *Dalt. J.* 84.

[w] 1 *Hawk. P. C.* 165, 166.

15 Hen. IV. c. 7. says, that they *MUST arrest them*; and, if the justices, or any of their company, kill any of the rioters, who will not surrender themselves, it is no offence in them.

This case of *Drayton Bassett*, which is also cited and approved by Sir *Matthew Hale* [x], incontestably demonstrates my *third* corollary.

In the 43d of Elizabeth (as it appears in a copy of the record preserved by *Tremaine*) the doctrine in *Bedingfield's* case was fully recognized and established by the decision in the case of *St. John* [y], or *Gardner* [z]; which, being subsequent to the stat. 33 Hen. VIII. c. 6. prohibiting the use of *hand-guns*, clearly shows, that no alteration in the ancient law was made by that prohibition.

The case was this: *Gardner* had obtained a judgement against *St. John*, and procured a writ of execution directed to the sheriff of *Bedford*, who made a warrant to *Gardner's* own brother as a special bailiff; but, resistance being justly feared, the bailiff armed himself with a *dagge*, or short gun. It happened that *St. John* was a justice of peace for *Bedfordshire*, and seems to have had that *little learning*, which, in law rather more than in poetry, *is a dangerous thing*, especially when it is coupled with

[x] 1 H. P. C. 495.

[y] 5 Rep. 71, 72.

[z] Cro. Eliz. 821, 822. *Tremaine* gives us the record, in which the magistrate is named *John St. George*. T. P. C. 354. BL Rep. 1209, 1210.

knavery; for, having notice how the bailiff was armed, he contrived to have him seized by his servants, and brought before himself as the *next* justice; when, by colour of his office and the statute of Hen. VIII. he committed the officer, who came to arrest him, until he should pay ten pounds, one moiety to the queen, and another to the informant. The bailiff having removed himself by *habeas corpus*, and the whole matter being disclosed to the court, it was resolved, “ that the sheriff or any of his ministers, in execution of justice, may carry dagges
“ or *hand-guns*, or other weapons invasive or defensive, the same not being restrained by the general prohibition of the statute; for, if it were,
“ *no justice would be administered.*”

By stronger reason such weapons may be carried for the purpose of suppressing riots, apprehending felons, or repelling invaders. It may here be observed, that the statute of Hen. VIII. was enacted for the prevention of mischief, that might be occasioned by the use of *little hand-guns*, which might be carried secretly and kill on a sudden; but guns of a proper length were not prohibited.

The *Case of Arms*, or BURTON's case, next presents itself to our examination: it is of very high authority, and so apposite to the object of our inquiry, that I shall make no apology for citing it in the very words of the learned reporter [a]: “ Upon

[a] Poph. 121, 122.

“ an assembly of *all the justices and barons* at Ser-
 “ jeant’s Inn this Easter term, (39 Eliz.) on Monday
 “ the 15th of April, this question was moved by
 “ *Anderson*, Chief Justice of the Common Bench;
 “ *Whether men may arm themselves to suppress riots*
 “ *and rebellions, or to resist enemies, and endeavour*
 “ *of themselves to suppress or resist such disturbers of*
 “ *the peace and quiet of the realm*; and, upon good
 “ deliberation, it was resolved by *them all*, that every
 “ justice of peace, sheriff, and other minister, or
 “ OTHER SUBJECT OF THE KING, where such acci-
 “ dent happens, *may do it*; and, to fortify this their
 “ resolution, they perused the statute of *Northampton*,
 “ 2 Edw. III. c. 3. which enacts, that *none be so*
 “ *hardy as to come before the king’s justices or other*
 “ *ministers of the king in the execution of their office*
 “ *with force and arms, nor to bring force in affray of*
 “ *the peace, nor to ride or go armed by night or day,*
 “ EXCEPT *the servants of the king in his presence, or*
 “ *the ministers of the king in the execution of his pre-*
 “ *cepts, or of their office, and those who are in their*
 “ *company assisting them, OR UPON CRY MADE FOR*
 “ WEAPONS TO KEEP THE PEACE, *and this in places*
 “ *where accidents happen, upon the penalty in the same*
 “ *statute contained*; whereby it appeareth, that, upon
 “ *cry made for weapons to keep the peace, EVERY MAN,*
 “ where such accidents happen, for breaking the
 “ peace, *may by law arm himself* against such evil-
 “ doers: but they took it to be *the more discrete way*
 “ for every one in such a case to be assistant to the

“ justices, sheriffs, or other ministers of the king in
“ the doing of it.”

Highly as the authority of Sir *John Popham* deserves to be respected, it is to be wished, that lord *Anderson* himself had given us a full account of his own opinion with that of the other judges; but he has left us no more than a short note [b] to the same effect with the preceding report. This case also is cited by *Hale* [c], and the very words in Popham are transcribed by Sir *John Kelyng* in his report of *Lymerrick's* case [d]. I think it a strong proof of my *fourth* corollary, respecting the necessity of being *prepared* at all times to keep the peace; but, if a particle of doubt on that head can remain, it will be dissipated at once by the statute of Westm. 1. c. 9. by which, as it is cited by Crompton [e], “ *purveu est, qe*
“ *touz continualment soient prestez et apparaillez al*
“ *maundement et al somons des viscountes, et al crye*
“ *del pais de fuire et darester felons, qant mestier*
“ *ferra, auxibien dedeins fraunchises come dehors;*
“ *et ceux, qe ceo ne ferront, et de ceo soient at-*
“ *teintz, le roi prendra a eux gravement;*” whence it should seem, that ALL SUBJECTS, who are not

[b] 2 And. 67.

[c] 1 H. P. C. 53. 2 H. P. C. 76. 99.

[d] Kel. 76.

[e] Just 124. a. — 158. a.

See also the Case of the Inhabitants of *Wigan*; where the words of Chief Justice *Lee* are no less clear than forcible:
“ People rising in this manner, *with a view to support go-*
“ *vernment*, are not to be blamed; it is clear, that in such a
“ case every *subject* is to be considered as an *officer*, though
“ a *private* man. The greater the distance, the greater the
“ merit.” Bl. Rep. 47, 48.

continually

continually prest, or *ready*, for the orders of the sheriff or an alarm in the country, are exposed to the royal displeasure and to a severe penalty; and the word *prest* (which in modern times has been either ignorantly or intentionally confounded with the participle passive of the verb *to press*) is used for *prepared* by Chief Justice FINEUX in a passage before cited: I am aware, however, that *communalment* is the usual reading; which will give a sense rather less forcible, “that all men *generally* shall be ready” and accoutred *at* the summons of the sheriff;” but this amounts to the same thing; for how can a man be armed and apparelled *in an instant on a sudden alarm*, unless his weapons and accoutrements were previously at hand?

The opinions of the learned, which form the second branch of my proofs, can add little weight to *four* Cases of such authority, as those of *Bedingfield*, *Drayton Bassett*, *St. John*, and the *Case of Arms*: indeed, these cases seem to have been the guides of *Lambard* and *Dalton*, *Hale* and *Hawkins*; who all agree, that “it
“ is referred to the discretion of the sheriff, under-
“ sheriff, or other person authorized to raise the
“ *posse*, how many men they will assemble, and how
“ they shall be armed, weaponed, or otherwise furnished for the business [*f*];” that, “private persons may arm themselves in order to suppress a
“ riot, and that all, who attend the justices in order
“ to quell a tumult, may take with them *such weapons*

[*f*] Lamb. Eiren. 317. Dalt. S. c. 95. J. c. 82.

“ as shall enable them to do it effectually [g]; that,
 “ lastly, in executing process or apprehending riot-
 “ ters, they may, by the common law, beat, wound,
 “ or kill, any of the opponents or insurgents, who
 “ shall resist them [b];” all which opinions are sup-
 ported by solemn decisions, and are, in truth, the
 conclusions of natural reason from the simplest and
 surest premises.

The *fifth* and *sixth* propositions, which I consider
 as simple corollaries, are founded in part on *extrin-*
sick assumptions, drawn from history and experience :
 they may therefore, even by the rules of law, admit
 of proof from the authority of men, “ quibus in
 “ arte sua credendum est ;” and the following cita-
 tion from Mr. WINDHAM’s elegant introduction to
 his *Plan of Discipline for the Norfolk Militia* will be
 thought as convincing as any passage in Fitzherbert
 or Brook. “ About the beginning of this century,
 “ says he, the troops in Europe were universally
 “ armed with firelocks ; *to which*, much about the
 “ same time, *the bayonet being added*, pikes also were
 “ laid aside. When the use of fire-arms began to be
 “ generally established, the *necessity of a great regu-*
 “ *larity and uniformity*, in the manner of using those
 “ arms, became apparent : it was soon discovered,
 “ that those troops, which could make the briskest

[g] 1 Hawk. P. C. c. 65.

[b] Lamb. Eiren. 318. 1 Hale H. P. C. 495.

“ fire,

“ fire, and sustain it longest, had a great superiority
 “ over others less expert: and, likewise, that *the*
 “ efficacy and power of fire did not consist in random and
 “ scattering shots made without order, but in the fire
 “ of a body of men at once, and that properly timed
 “ and directed. It was therefore necessary to exercise
 “ the troops in loading quick, and firing together by
 “ the word of command; but, as the awkwardness,
 “ carelessness, and rashness, of young soldiers (if left
 “ to themselves) must occasion frequent accidents,
 “ and *the loss of many of their own party*, by the
 “ unskilful manner of using their fire-arms, especially
 “ in the hurry of an engagement, it became a mat-
 “ ter of indispensable necessity to teach soldiers an *uni-*
 “ form method of performing every action that was
 “ to be done with the musket, that they might all
 “ do it in *the most expeditious and safest manner.*”

Should any doubt be raised as to the legality of *as-*
sembling for this purpose, and should the words of Sir
Matthew Hale, whom of all men I respect the most,
 be opposed to me, that, “ where people are assem-
 “ bled in great numbers armed with weapons offen-
 “ sive, or weapons of war, if they march thus armed
 “ in a body, if they have chosen commanders or
 “ officers, if they march *cum vexillis explicatis* or with
 “ drums or trumpets, and the like, it may be con-
 “ siderable, whether the greatness of their numbers,
 “ and their continuance together doing these acts,
 “ may not amount to *more guerrino arraiati*, or a
 “ levying of war [i],” which may be construed an en-

[i] 1 H. P. C. 131.

croachment on the prerogative of the crown [k]; the answer is no less obvious than decisive, in the language of BRACTON, that, *Voluntas et propositum distinguunt maleficia* [l]; that, the intent being good, the act cannot be bad; and that *Bedingfield's* case is an express authority for the legality of "marching" armed in a body *more guerrino arraiati*, even for the purpose of executing a civil process, to which there is just expectation of violent resistance. So necessary, indeed, is *order* and *discipline* in directing the exertions of an armed assembly, that the statutes 3 and 4 Edw. VI. c. 5. and 1 Mary, c. 12. (which are no longer in force, but were the models of the well-known riot-act) expressly authorize the sheriffs, justices, mayors, and bailiffs, "to raise power and" *array them in manner of war* against the rioters:" and here I may again apply those sound maxims, to which I before alluded: 1. That *the law requires no impossible things*; but it is impossible to join the power and suppress a riot effectually, without being at least moderately skilled in the use of fire-arms, and ready in the common evolutions. 2. That, *when the law permits or enjoins the performance of any act, all the means of performing it are also permitted or enjoined*; but the law doth permit and command *every subject of this realm* to arm himself and use his arms with effect for the suppression of tumults: the con-

[k] 3 Inst. 9.

[l] L. 3, c. 14, § 13.

clusion,

clusion, in both forms of reasoning, follows too closely and too evidently to admit of a doubt.

That the four cases, on which I have relied, have never been shaken by any later decision, appears from the uniform recognition of their authority by the best modern writers: indeed, nothing less than an act of the legislature could justly over-rule unanimous and well-considered resolutions; but no act whatever has in any degree affected them; and the common law, which in general is the perfection of human wisdom, happily in this instance has stood like a rock amid the conflict of statutes rolling upon statutes.

Neither of the statutes of Westminster had any effect on the decision in *Bedingfield's* case; nor was that of *St. John* at all influenced by the subsequent prohibition of hand-guns; nor the *Case of Arms* by the statute of *Northampton*; and, though the act of queen *Mary* was continued during the life of *Elizabeth*, yet Sir *Matthew Hale* observes, that, “the case of “*Drayton Basset* was not within that statute, nor depending on it [m].” In the same manner serjeant *Hawkins* remarks, in conformity to *Hale* and to reason, which will very seldom be found at variance, “that the stat. 1 Geo. I. c. 5. commonly called the “riot-act, being wholly in the affirmative, cannot be “thought to take away any part of the authority in

[m] 1 H. P. C. 495.

“ the suppressing of a riot, which was before that
 “ time given either to officers, or *private persons*, by
 “ the common law or by statute [*n*].”

Having shown the nature and extent of the *Posse Comitatum*, and proved that it is required by law to be equal in its exertion to a well-disciplined army, I have established the proposition, which I undertook to demonstrate [*o*] : “ That the common and
 “ statute laws of the realm, in force at this day,
 “ give the *civil* state in every county a power, which,
 “ if it were perfectly understood and continually prepared, would effectually quell any riot or insurrection, without assistance from the *military*, and
 “ even without the modern riot-act.”

One side, therefore, of the distressing alternative, to which I was reduced, concerning the *precariousness* of *English freedom* [*p*], is happily removed ; but the other side remains, “ that our laws have been disgracefully neglected, and ought to be restored to
 “ full vigour and energy.”

To what fatal cause must we ascribe a neglect so shameful and so dangerous ? I answer boldly, yet, I hope, without arrogance, since I use the very words of BLACKSTONE, “ to the vast acquisition of
 “ force arising from the riot-act and the annual expence of a standing army [*q*];” which has induced a disposition, cherished by the indolence natural

[*n*] 1 P. C. c. 65.[*o*] P. 11.[*p*] P. 10.[*q*] 4 Comm. 434.

to man, and promoted by the excessive voluptuousness of the age, to look up solely for protection to the executive power and the soldiery; a disposition, which must instantly be shaken off, if any spark of virtue remain in our bosoms; for, although we are happy in a prince, who “will never harbour a “thought or adopt a persuasion in any the remotest “degree detrimental to the liberty of *Britain* [r],” yet in free states a military power must ever be an object of jealousy; and, since our excellent constitution will be claimed by our posterity as their best inheritance, we must act with a provident care, lest, two centuries hence, the fable of the horse should be verified in our descendants, who may be in need of protection against their protectors, and be forced to carry *harnes*s, notwithstanding the repeal of the statute of *Winchester*.

For the history of the riot-act, so laboured and so ineffectual, I must refer my reader to the incomparable author, whom I so frequently cite, the commentator on the laws of *England*; who expresses his jealousy and disapprobation of it with no less delicacy than wisdom [s]: in respect to the number of capital felonies created by it, which *Blackstone* seems highly to have disapproved, I shall say nothing, as it is not my present subject; but I may, with all due reverence for the legislature in the first year of

[r] 1 Bl. Comm. 337.

[s] 4 Comm. 143.

GEORGE the First, observe, that the act was a bad copy of a bad model, the statute of Mary; that there seems to have been no occasion to make it perpetual, much less to enlarge it; that it is in some parts liable to dangerous misinterpretation; that it has been found wholly inadequate to the end proposed by it; and that the third clause of it was in great measure unnecessary, as it only affirms “our ancient law, which had pretty well guarded against any violent breach of the peace[t].” Confirmatory statutes are always attended with the danger of superseding the use, and obliterating the remembrance, of the common law, which they confirm, and which the wisdom of ages had before sufficiently established.

As to the best mode of *restoring our laws to their full vigour and energy*, and of providing for our future defence, I shall certainly submit it to the discretion of my countrymen, who are bound by those laws; and shall only suggest to them the following plan; after premising, in the words of serjeant *Hawkins*, “that, although *private persons may arm themselves* in order to suppress a riot, and may consequently *use arms* in the suppressing of it, if there be a necessity for their so doing; yet it seems to be extremely hazardous in *common* cases, lest, under the pretence of keeping the peace, they

[t] 4 Bl. Comm. 147.

“ cause

“ cause a more enormous breach of it ; and, there-
 “ fore, such violent methods seem only *proper* against
 “ SUCH RIOTS AS SAVOUR OF REBELLION, for the sup-
 “ pressing of which no remedies can be too severe[u].”

THE PLAN.

I.

Let all such persons in every county of ENGLAND as are included in the *power* of that county, and *are of ability to provide themselves with arms*, and pay for learning the use of them, be furnished each with his *musket* and *bayonet*, and their necessary appendages.

II.

Let several *companies* be formed, in every county, of sixty such men or more, voluntarily associated for the sole purpose of joining the power, when legally summoned, and, with that view, of learning the proper use of their weapons, street-firing, and the various evolutions necessary in action.

III.

Let the companies be taught, in the most private and orderly manner, for two or three hours early every morning, until they are competently skilled in the use of their arms : let them not, unnecessarily,

[u] 1 Hawk. P. C. c. 65.

march through streets or highroads, nor make any the least *military* parade, but consider themselves entirely as part of the *civil* state.

IV.

Let each member of a company, when he has learned the use of his arms, keep them for the defence of his house and person, and be *ready* to join his company in using them for the suppression of riots, whenever the sheriff, under-sheriff, or peace officer shall raise the power, or there shall be a *cry made for weapons to keep the peace*.

V.

Let the *caution*, prefixed to this plan, be diligently observed, and the law, contained in the preceding citations, be held ever sacred: nor let any *private* person presume to raise the power of the county [w], which is the province of the sheriff, under-sheriff or magistrate; although a *cry for weapons to keep the peace* may be made in cases of extreme necessity, and in them only, by *private persons*.

VI.

If any mark of distinction in dress shall be thought expedient, that the several companies may know each other, in the forcible suppression of a riot, let such a regulation be severally referred, with any

other rules that may be necessary, to a committee chosen out of each company.

The great advantages of such associations are so apparent, that I shall forbear *at present* to expatiate on them; but shall be satisfied with applying to them what PULTON says of the old tilts and jousts, “ that the cause, beginning, and end thereof do tend
“ to the laudable exercise of true valour and man-
“ hood, and to the encouragement and enabling of
“ the actors therein to defend the realm and the
“ peace thereof [x];” and with observing, in the words of the stat. 33 Hen. VIII. c. 6, that the musket may now be made, what the long bow was formerly, “ the surety, safeguard, and continual defence,
“ of this realm of *England*, and an inestimable dread
“ and terror to the enemies of the same.”

Objections will certainly be raised; for who can propose a measure, however salutary, to which no man will object? I expect them, however, chiefly from those, whose indolence may induce them rather to seek protection from a power able to crush them, than to protect themselves by joining a power provided by free and equal laws; or from those, who, as MILTON says, “ have betaken themselves to state-
“ affairs with souls so unprincipled in virtue and
“ true generous breeding, that flattery, and court-
“ shifts, and tyrannous aphorisms, appear to them

[x] De Pace, 25. b.

“ the highest points of wisdom.” To such men it will be sufficient to give this general answer ; that, as there is no necessity of applying either to the executive, or to the legislative, power for permission to obey the laws, we are not to debate on vague notions of expedience, groundless jealousies, or imaginary consequences : the sole question is, “ whether the doctrine expounded in these pages *be law* ;” if it be, there is no room for deliberation, since it is a maxim, that *no man must think himself wiser than the law*, which is the gathered wisdom of many ages ; and so favourable is the *common law* of ENGLAND to the rights of our species, which it is unhappily become the fashion to deride and vilify, that, if any man will broach a position in favour of genuine, rational, manly freedom, I will engage to supply him with abundant authorities in support of it.

I persuade myself, that infinite good must result from the general adoption of my plan ; and that no possible evil can be mixed with it, as long as the cautions and restrictions before suggested shall be duly observed, and our excellent constitution be kept in its just balance at that nice point, which is equally removed from the pernicious extremes of republican madness, aristocratical pride, and monarchical folly ; nor have I any scruple to confess, that, as every soldier in ENGLAND is at the same time a citizen, I wish to see every citizen able at least, for the preservation of publick peace, to act as a soldier : when
that

that shall be the case, the LIBERTY OF BRITAIN will ever be unassailed; for this plain reason—it will be unassailable.

The security, and consequently the happiness, of a free people do not consist in a belief, however firm, that the executive power will not attempt to invade their just rights, but in a consciousness that any such attempt would be wholly ineffectual,

that shall be the case, the liberty of Britain will
ever be guaranteed; for the same reason—it will be
unaffiliated with any foreign power.
The Government, and consequently the people,
of a free people do not count in a battle, but
ever trust that the executive power will not attempt
to invade their just rights, and that the
that no such attempt would be wholly successful.

A
S P E E C H
ON
THE NOMINATION OF
C A N D I D A T E S
TO REPRESENT
THE COUNTY OF
M I D D L E S E X,
IX SEPTEMBER, MDCCLXXX.

On the 9th of September, 1780, I met the freeholders of Middlesex assembled for the purpose of nominating two representatives in the new parliament; but, there being no opposition or debate, and only some formal business transacted, I could not with propriety rise to address them on the general state of the nation. On my return home, I amused myself with revolving in my mind such topics as I should probably have urged, if there had been either room or invitation to speak at all; and half an hour's meditation convinced me, that I should have addressed my countrymen, possibly in the following words; but, certainly, to the following purport.

the light of so many injured citizens brings fresh to my mind, the nature of the remedy, which has occurred to me, and which the object of the present

meeting must instantly suggest, together with my hearty approbation of the principles avowed by the two honourable candidates [a], have induced and even impelled me to do so. That approbation, and at the same time to present you with a short,

S P E E C H

in your power, by any means, to remove, alleviate, and able, the necessity of employing the only means, and to enforce, as strongly as I

TO THE

FREEHOLDERS OF MIDDLESEX.

GENTLEMEN,

Nothing, I assure you, was more distant from my thoughts, on my first entrance into this assembly, than the design of rising to address the county of *Middlesex*, and, through them, the electors of *Britain*, on the multiplied and increasing evils, with which they are at this moment surrounded, and for which they may at this moment, if ever, provide a remedy; But the number and magnitude of those evils, which

the

the sight of so many injured citizens brings fresh to my mind, the nature of the remedy, which has occurred to me, and which the object of the present meeting must instantly suggest, together with my hearty approbation of the principles avowed by the two honourable candidates [a], have induced and even impelled me to declare that approbation, and at the same time to present you with [a short, though painful enumeration of your calamities, actual or impending, and to enforce, as strongly as I am able, the necessity of employing the only means in your power, by which you may remove, alleviate, or avert them.

I begin with congratulating you, gentlemen, on the dissolution of an angry, vengeful, implacable parliament, which in six sessions has deprived this country of greater advantages than six centuries will restore to it, and, by all its avenging acts (which I have lately been contemplating with no less attention than anguish), has established a system so compact and well-adapted to every ruinous purpose, that, if any other colonising and commercial nation shall hereafter determine effectually to alienate their colonies and destroy their commerce, they must propose as their model *THE FOURTEENTH PARLIAMENT OF GREAT BRITAIN*: but, unless you resolve, (and when I speak to you, I should wish to raise my voice so high, that all other Englishmen

[a] John Wilkes and George Byng, Esqrs.

might hear me), unless you firmly resolve, that the *fifteenth* parliament, which you are now called upon to elect, shall be guided by another star and pursue another course; shall profess, instead of resentment, forbearance; instead of rancour, lenity; instead of revenge, placability; and a conciliating, not a subjugating, spirit; there will be no room for congratulation, none for triumph; but your calamity will then be the last and worst that mortals can suffer, because you will want the only consolation that mortals afflicted in extremity can enjoy, Hope. If six years have dragged you to the brink of perdition, from which you may still be preserved, six more such years will precipitate you into the gulf, from which there will be no redemption: and, that you may perceive the importance of this crisis, which calls aloud for all your virtue and all your resolution, let me request you to view with me from above the horrors of that precipice on which you stand, and on which, if you fall through dizziness or fainting, you will look back in vain.

Turn your eyes for a moment to the *East*, and behold three noble kingdoms in the paradise of *Asia*, together with great dominions on other parts of the *Indian coast*: all these a series of wonderful events, which the hand of time had been weaving for ages, has brought into your sole possession; *yours* I say, because, whether the crown or the company *formally* have the territorial right (a question which I hope
the

the wisdom of the nation will prevent from being discussed), yet in either case the territories must necessarily be held *in trust for the benefit of the whole community*. What is the fruit of these dominions? No less than every precious, every useful, commodity; gold and gems, spices and elegant apparel; and these not only producing private wealth to the industrious or fortunate, but filling the coffers of the state with annual treasure, and forming at this instant your chief resource: not to enlarge on the chain of excellent ships, and the nursery of incomparable seamen, by which your navy has been more than once enabled to protect this island from invaders; but you must not forget, that your *Indian* territories border on those of an ambitious and numerous people, with a very warlike spirit and a very hostile disposition [b], whose power has been growing for a century, and, if it continue to increase, may possibly endanger even our *settlement in Asia*, but must unavoidably require the wisest counsels, the most vigorous exertions, and the most abundant supplies both of gold and arms: there is a power also in this very country, which has long been hovering over the company, but whose violence will, I trust, be averted by a seasonable accommodation. This I may boldly affirm, that, if any sudden revolution in *Asia*, or the continuance of an unaccommodating spirit in *England*, shall overthrow or even

[b] This has been too fully proved since the year 1780.

shake our *India* company, nothing less than the miraculous discovery of golden mines in this island can supply the expenses of the complicated war, in which we are engaged.

I pass with haste by the coast of *Africa*, whence my mind turns with indignation at the abominable traffick in the human species, from which a part of our countrymen dare to derive their most inauspicious wealth, and which our southern colonies, *while they were ours*, strove in vain to abolish, but will now, I am credibly informed, annihilate *by their own authority*, as soon as times and circumstances shall permit them to emancipate their slaves [c]. Sugar, it has been said, would be dear, if it were not worked by *blacks* in the western islands; as if the most laborious, the most dangerous, works were not carried on in every country, but chiefly in *England*, by *free men*: in fact, they are so carried on with infinitely more advantage; for there is an alacrity in a consciousness of freedom, and a gloomy sullen indolence in a consciousness of slavery; but let sugar be as dear as it may; it is better to eat none; to eat honey, if sweetness only be palatable; better to eat aloes or coloquintida than violate a primary law of nature, impressed on every heart not imbruted by avarice, than rob one human creature of those eter-

[c] This measure has since been greatly advanced, to the immortal honour of Mr. *Laurens*, and other excellent men, who concurred in so glorious a work.

nal rights, of which no law upon earth can justly deprive him.

I would not here even mention the total decay of your trade to the dominions of the *Turkish* Sultan, since the causes of that irreparable loss are wholly unconnected with our other calamities, and were antecedent to the measures, which have nearly ruined us; but since the advantage, which we have lost, has been transferred to the *French*, and a source of opulence, from which we are excluded, rolls in a plentiful stream on our bitterest enemies, this misfortune also may be added to the afflicting and humiliating catalogue.

A scene far more deplorable presents itself in *the western hemisphere*; with this mixture of consolation, that, if we be firmly united in one wise and virtuous resolution, our certain relief will proceed from that very quarter, whence our calamity sprung, and *America reconciled* will repair the losses, which *America injured* was forced to occasion. The war with our colonies, of which the sad detail is too fresh in your memory, began with injustice, was pursued with malignity, and must end, if it be long protracted, in destruction: the *principles* on which it was begun, and by which it has been feebly but insolently vindicated, are no less irrational in themselves than repugnant to the first elements of our constitution; and the bringing of those principles into fashion has been the most envenomed fruit of this miserable contest.

test. It fills me, I declare, with a petrifying astonishment, that the *people of England* are still blind to the consequences of this war, and will not see how closely their own liberties are blended and interwoven with those of the *Americans*: were it possible to subdue them by force, it would be impossible to keep them in subjection without a constant military establishment; and thus an exhausted dispirited race of slaves, with a desolated country, would be purchased at the expense of our constitutional government; whilst a flattered, caressed, intoxicated army, conquerors without fame, and heroes without laurel, would return to give us law, and make us truckle to a power, which our fore-fathers always suspected, always detested. Such would be the fruits of *victory*! but comfort yourselves, my countrymen, and be assured that you will not be *finally* victorious[d]. All the nations of *Europe* (I speak only what I know) have long envied, and consequently hated, you: they now take a malignant pleasure in laughing at your projects, and deriding what they call the *madness* of your enterprises.

I was last summer at *Paris*, in company every day with sensible and experienced men of different nations; men, who knew *America* perfectly, and as perfectly knew the strength of the *British* navy. "Your countrymen," said they, "must be *mad* in the extreme, to entertain a hope of subduing a

[d] A prediction fully accomplished.

“ people *both commercial and agricultural*: you may
 “ certainly obstruct their commerce, and perhaps
 “ possess yourselves of every provincial town, *near*
 “ *which your ships can approach*; but your conquest
 “ will not be accelerated. The virtuous republicans
 “ can subsist, as pleasurably as republicans either
 “ ought or wish to subsist, by *agriculture* alone, and
 “ your armies will never penetrate, to our positive
 “ knowledge, into the *heart* of their provinces, how
 “ loudly soever you may boast of success at the ex-
 “ tremities.” What pain must it give a lover of
 his country to hear such reproaches from his ene-
 mies! but how much must his pain be augmented
 by a consciousness, that those enemies might perhaps
 be vanquished by arms, but could not be confuted
 by reason!

Thus have we lost our flourishing colonies; and
 lost them irrecoverably, unless we conciliate their
 minds by renewing their unsuspicious confidence;
 while the nations of our *European* continent are
 either openly hostile, or secretly adverse, to us, and
 our *western islands* seem to lie in the midst of the
 field, like the prizes in the ancient games, ready to
 decorate the brows of successive conquerors [e].

As to *IRELAND*, she has for a time been soothed
 by extorted concessions; but let her ever keep in
 remembrance, that she owes her late acquisitions to

[e] If the *French* have a PINDAR among them, we have
 given him too many subjects for *Odes* of triumph.

the example and efforts of *her sisters beyond the Atlantick.*

Nor let the generous people of *BRITAIN* disdain to receive advantage from the same once affectionate, and yet kindred, hands. Two strong topicks are now urged in *America* (alas! with how much bitter truth!) against any sort of re-union with this country: first, they insist, that we are degenerate in manners and principles, and that we suffer ourselves to be seduced with the moonshine of *forms*, whilst our constitutional liberty, without which there can be no union between us and them, is in *substance* extinguished; secondly, they aver, that *many attempts have been made to ensnare them*, which have wholly destroyed their confidence in any set of men, whether ministers or opponents of ministry; so that nothing can remove their distrust but *a national proof of our sincerity* by the lenient acts of a free parliament.

You begin, I am persuaded, to discover the double remedy for all our evils, which I ground on these two objections to a reconciliation; and which, if you suffer this moment to pass, you will never be able to apply. I will hold you no longer in suspense; the remedy is this—"return a conciliating parliament, and restore the lost balance of your constitution." I said the *lost* balance, and I said it with boldness; because it is a proposition of the clearest evidence, a truth of the first water, that the due temperature of powers in our mixed system, which

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MONTESQUIEU, who breathed the spirit of an *Englishman*, and *BLACKSTONE*, who was the pride of *England*, so lavishly applauded, subsists no more.

The subject, on which I am entering, is vast; but I will restrain myself within proper bounds, and be satisfied with reminding you, that the executive magistrate (of whom it behoves us to speak respectfully, yet freely) has of late acquired two enormous branches, not of just prerogative, but of unconstitutional power; *influence*, by receiving and dispensing at pleasure all the gold, and *force*, by commanding and subjecting to his nod all the steel, of the nation, thus holding in his mighty grasp, as the Thunderer of the ancients is represented on *Olympus*, the two sinews of war; by one of which the coequal parts of the legislature may continually be sapped, and by the other may at any time be stormed. I have heard undue *prerogative* compared to a *giant*, who bestrides our narrow island, and may at his discretion suspend his massy club over our heads, or reduce us to powder with its weight; whilst *influence* resembles a *fairy*, who plays around us invisibly, or assumes any shape that suits her purpose, and often drops gold or patents in proper places, as a reward or incentive for such as merit the approbation of the little wanton divinity. Attempts to bring back the constitution to its genuine temperament are so far from being seditious or even derogatory from the respect due to the Crown, that they would, if successful, highly

augment the splendour of it ; unless it be more glorious to rule, like the princes of the continent, over *slaves*, than to be *the chief in a nation of freemen* ; an opinion, which no man, who deserves either dignity or freedom, can entertain. As to the first branch, *undue influence*, the well-intended efforts of the petitioning and associated counties have not, unfortunately, been as well directed, but have been obstructed, if not defeated, by a cause very dangerous on similar occasions, though in itself not dishonourable ; I mean, by an exuberance of zeal in the promoters of the business, and by a departure from the simplicity of the original plan, which ought all along to have been steadily kept in view. The object of the different associations became too complex, or, as a pleader would term it, *multifarious* ; and the petitions, beginning in a single point, on which there could be no diversity of opinion, ended in a variety of points, on which the best and wisest men might and did disagree. A proposition, designed to meet with unanimous concurrence, cannot be too simple ; and I may safely assert, that a very judicious motion, which was made in the late parliament by a Senator, whose great popularity is no more than a just reward of his unrivalled talents and unbiaſſed integrity [f], would never have been carried, if its extreme simplicity had not made it like a stroke of lightning, irresistible. The *time* also, when

[f] *John Dunning, Esq; now Lord Ashburton.*

the associations were formed, gave suspicion to many honest men ; who were prompted to consider them as an attempt to catch the popular gale *on the approach of a general election* ; nor was the suspicion wholly groundless, although I am confident, that numbers of the most exalted virtue and the most independent spirit associated themselves from the noblest motives. The *only* objection against associations, which I was at a loss to answer, was founded on the proximity of that moment, when we might apply a remedy to our accumulated ills by a method strictly legal, without vainly soliciting the authors of our misery to heal the very wounds in our constitution, which they had themselves inflicted.

The second branch of irregular power in the crown, *military force*, appears to have been overlooked by the associated counties, and little considered by the people in general, till the late exertion of it in suppressing the fatal riots in our metropolis ; fatal, because in less than a week they operated more forcibly on feeble minds in favour of *pure monarchical authority* than all the speeches and writings of all the courtiers and sycophants could have done in a century ; fatal indeed ! unless your noble exertions turn the tide of those dangerous opinions, which have been rolling impetuously within the last three months against our glorious constitutional fabric.

There has indeed been an attempt to check this growing disposition by an unknown person, who
seems

seems however to have the welfare of his country at heart; and who has demonstrated, that, if our laws were restored to their genuine vigour, there would be little danger from the vast accession of force, which the crown has gained by the riot act and the *annual* appointment of a standing army [g]; but assure yourselves, that, unless his plan, or some other not dissimilar to it, be generally adopted, *a standing army* paid by the *king*, officered by the *king*, commanded by the *king*, devoted to the *king*, will be made, in form annual, in substance perpetual.

On how great a variety of matter have I touched, and into how wide a field should I have been led, if my respect for so enlightened an auditory had not restrained me! Intimations to such men, as I am addressing, supply the place of the most copious discussion; and, as I am willing to believe, that my sentiments have been little more than an echo to your own hearts, I have all along considered myself as rather exhorting the people of *Britain* at large, many of whom may be ^wavering, and many thoughtless, than the firm, the intelligent, the consistent electors of *Middlesex*.

All my countrymen, therefore, in general, through you, my fellow-freeholders, I adjure and supplicate, by whatever they hold estimable in this world, by the endearing relations of friends, families, and country, to follow the example of an individual,

[g] See the *Inquiry into the Legal Mode of suppressing Riots*.

who loves and reveres them, in solemnly declaring, what I now solemnly declare, that I would not give my voice, on this occasion, to my best beloved or most respected friend, unless I knew with moral certainty his fixed resolution to restore by the most effectual means in his power *the broken harmony of our limited republick*, and to promote *a conciliatory act for the cessation of hostilities against the Americans*, on terms which nothing but their well-grounded confidence in *national*, not *ministerial*, engagements can induce them to accept.

Since one of our honourable candidates has, I firmly believe, the disposition which I require in my representative, and since he has done the state very signal service, I shall give him my suffrage with the warmest alacrity; and since his intended colleague, whom I have not the honour of knowing, except by the fair fame of his excellent character and sound principles, has engaged himself to support that character, and act conformably to those principles, I beg him with equal cheerfulness to accept my hearty concurrence in his nomination.

Who is this (it will possibly be whispered or exclaimed) that importunes us with his complaints and his exhortations? This only, gentlemen, it will become me to answer. Were I inflamed by resentment against one set of men, or biased by attachment to another, you might justly suspect the sincerity of my professions; or, if any disappointment in
 4 the

the career of ambition, or abrupt refusal of a favour asked, had ruffled or embittered my temper, you might fairly withdraw your attention and confidence; but, since I am neither agitated by one tumultuous passion, nor constrained by any narrowness of party; since the few favours I ever asked of administration have been either granted with the most obliging facility, or kept, from the justest motives, in suspense; since the first minister himself and many of his confidential friends have attached me personally to them by their manly, noble, unreserved behaviour, and that to a man from whom they could have nothing either to hope or to fear; since others, now in high departments of state, have conferred obligations on me, a grateful sense of which I shall never lose, but with my life; my country cannot with justice distrust my filial affection; nor can those, to whom I am obliged, accuse me of ingratitude, if I confine my regard to their *persons*, without extending it blindly to their *actions*, and publickly evince my opinion, that the sacred duty to our country, which transcends all other relations, supercedes at the same time all other ties.

Had it been my good or my bad fortune to have delivered in the great assembly of representatives the sentiments which this bosom contains, a small part of which I have now delivered in a great assembly of electors, I am sensible that my *publick* course of speaking and voting must have clashed in a variety

of instances with my *private* obligations; and this conflict of interfering duties constitutes, in my opinion, the nicest part of morality; on which, however, I have completely formed my system, and trust that no views of interest will ever prevent my practice from coinciding with my theory.

Having then imperfectly, I fear, but zealously, I am sure, discharged one duty this morning, to the neglect perhaps of another, but certainly with a total disregard of my own loss or gain, I sit down with an entire conviction, that, if my countrymen be virtuously active and deliberately firm at the present crisis, there will be not a dawn only, but a full day-spring, of hope, that BRITAIN may again enjoy the sweets of rational liberty and the charms of peace: if, on the contrary, through drowsiness or oblivion of *English* virtue, you faint before you reach the goal, and suffer this moment to glide away unimproved, I do not see how any power less than that of GOD himself (and, whether this nation have deserved the divine interposition in their favour, it will become us all to consider) can save our country from slavery and ruin; to the misery of which will be added this painful and agonizing reflection, the last and keenest sting of despair, that you will then have a right to censure no human beings but YOURSELVES.

A N
O R A T I O N

INTENDED TO HAVE BEEN SPOKEN

I N T H E

T H E A T R E A T O X F O R D .

I X J U L Y , M D C C L X X I I I .

Isti ingenuè mihi que gratum, quòd quid sentirent, non reticuerunt : illud verò vel optimè, quòd ita multa mutari volunt, ut mihi de integro scribendi causa non sit.—— Mihi quidem maximè placuit, et eò magis quòd nihil est in eà nisi optimi civis——Quòd nonnulla erant paullo meliora, quàm ea quæ fiunt et facta sunt, reprehenduntur, quod me minimè pœnitet——Nec enim in hac quidem re quidquam magis ut vellem accidere potuit, quàm quòd σπεδὴ nostra non est probata.

CIC. ad ATT. 13. 27. & 12. 51.

A N
O R A T I O N
I N T H E
T H E A T R E A T O X F O R D,

I AM perfectly sensible, that every man, who speaks before a numerous assembly upon any subject of importance, must necessarily be reduced to a very distressing alternative; for either, by declaring his sentiments without circumspection or reserve, he must give offence to those, whom on other occasions he would chiefly wish to please, or, by
disguising

disguising his real opinions, and suppressing every dictate of his heart, he must not only submit to a painful restraint, but justly expose himself to the suspicion of weakness and insincerity. How perplexing soever this alternative may seem, I shall not hesitate a moment in my choice, but shall give a free course to my thoughts and words, without considering whose displeasure I may incur, or whose resentment I may provoke, by them; since I have long been persuaded, that a dangerous freedom is preferable to a secure servility, and that no motive of private benefit should be suffered in any single instance to interfere with our duty. From this resolution no views of safety or interest should allure, nor any fear of offending deter, us; but, whenever we see a prospect of advantage to our country, we should eagerly pursue it, at the hazard not only of our tranquillity, but even of our lives, and dedicate both our labours and talents to the preservation of that Liberty, on which the peace and happiness of our countrymen wholly depend.

No idle desire of ostentation, or the vanity of speaking before a splendid and respectable audience, could have prevailed with me so far to transgress the bounds of modesty, as to appear in publick on this day, if the voice of our parent University had not seemed, on this solemn occasion, to call aloud for some grateful and affectionate son, who might assert her dignity with zeal, by labouring to remove a
 pernicious

pernicious and inveterate prejudice, which too generally prevails against men of letters; a prejudice, which can be nowhere more unjust than in these seats of learning, and which it is odious even to repeat in this temple of science and virtue.

You cannot but know, that the study of polite letters has been of late years extremely depreciated; that **LEARNING**, the nurse of all the Virtues, the sister of Wisdom, the parent of every great and laudable quality, has been censured as destructive of manly spirit, unfavourable to freedom, and introductive of a slavish obsequiousness to the rich and powerful: groundless and ridiculous calumnies! which, if suffered to take root in the minds of *Englishmen*, would soon plunge us again into that state of darkness, from which it was the work of ages to redeem us, and would deprive us at once of all Liberty, which results as naturally from true Knowledge as light and warmth from the sun.

I rose with a design to vindicate the study of literature from these malevolent aspersions; to support the honour and independence of learned men; to display the transcendent advantages of this great **UNIVERSITY**; and to point out her superiour excellence above all other seats of the Muses, with which the world was ever adorned: in this ample field the limits prescribed to my oration forbid me to expatiate; it will become me therefore to select such topicks, as may best deserve your attention,

and not to forget, that I plead the cause of learning before men, who are themselves most eminently learned.

When I reflect on the various *Gymnasiums* and *Academies*, from which, as from so many rising constellations, the first glimmering of truth and reason was spread over every part of old *Greece* and *Italy*, I cannot forbear exulting at the superiority, which I discover in the two Universities of *England*, over all the philosophick bowers and studious walks of Antiquity: but, lest this encomium should be thought extravagant and adulatory, let us form the comparison with justice and candour.

What were the celebrated groves, from which the very name of *Academy* was derived; what was the gay *Lyceum*, what the famed Portico of the *Stoicks*, but the obscure retirements of contemplative men, who spent their days in subtle disputes and refined conferences; which so far engaged their attention, that they never cared to inquire what was passing in the City? None there were educated for the field, none for the senate: true eloquence, which can only be acquired in crowds and the hurry of civil life, was never taught in those shades, where a few trifling declaimers learned only to measure syllables, to smooth their periods, and to hide with rhetorical flowers the nakedness of their harangues. Not only were their studies removed from the great scenes of action; their very speculations were often
idle

idle and imaginary: they were strangers to the beautiful system of this vast universe, and knew but a small part even of the globe which they inhabited; their views of nature were imperfect and limited; their morality itself was either absurdly rigid, or dangerously relaxed; even the abstract sciences received no considerable improvement in the gardens of *Academus*, but were brought to perfection in *Egypt* and *Sicily*.

Our University presents us with a very different scene: here the sons of our patriots, legislators, statesmen, orators, display the first dawn of those talents, which are afterwards to distinguish them in the Senate, in the Pulpit, at the Bar; here they cherish and bring to ripeness those generous principles, which Nature plants in the bosoms of *Englishmen*, the love of truth, virtue, glory, liberty; principles, which cannot fail at last to make them great and illustrious characters, of whom their Country and all mankind will hereafter pronounce this noble elogium, *It was happy for us that these men were born!* There is no branch of Literature, no liberal Art, no sublime and useful Science, which may not here be learned to perfection, without having recourse to any foreign instructor: all nature lies open to our inspection; the surprising fabrick of this visible world has been explained to us, not by conjecture or opinion, but by demonstration; the works of poets, criticks, rhetoricians, historians, philosophers,

phers, the accumulated wisdom of all nations and all ages, are here made accessible and familiar to students of every class, in whose minds they are preserved as in a copious repository, whence they may at any time be extracted for the honour and benefit of the human species.

What a pleasure would it give me to descend from this *general* panegyrick, and enlarge on the *particular* characters eminent for parts and knowledge, with which this University has been adorned in our own memory ! but the time allotted to me for speaking forbids me the attempt. I cannot however refrain from paying a just tribute of applause to two most excellent persons ; whose merits have now raised them to stations of high dignity, and whose works will remain a lasting monument of their genius and abilities to the latest posterity.

The first of them has discovered the important art of uniting the most extensive erudition with the finest taste, and has shown with all the purity and elegance of the *Latin* style, how far the noblest productions of the heathen world are surpassed in grandeur of images, sublimity of expression, and magnificence of composition, by the only Poets, who were literally and truly inspired, an *Isaiab*, a *David*, a *Solomon*.

The second, whom my particular studies oblige me to mention with the highest reverence, has accomplished a task no less noble in its object than
difficult

difficult in its execution: the principles of our admirable LAWS, which before were dispersed at random in an infinite number of volumes, are now by his labours so perspicuously and elegantly traced to their source, in so distinct a method, and on so comprehensive a plan, that his Commentaries, like the twelve tables of the *Romans*, are already far superiour in usefulness, and will many ages hence be equal in authority, to a whole library of undigested compilations; and, as a great lawyer formerly wished, the student may now have leisure, without neglecting his principal object, to cultivate those parts of learning which polish and adorn civil life, relieve the fatigues of severer occupations, and give a real weight to science while they embellish it.

With what zeal must these works inspire us for the religion and laws of our Country! for a religion, which inculcates, and enforces by a heavenly sanction, the purest lessons of morality, an universal benevolence, candour, virtue, innocence; for laws, which flow, as from an abundant fountain, from the clear deductions of reason, wisdom, justice, and humanity, and in which the most intricate cases are generally reducible to a few transcendental truths, which no perverseness can deny, no folly contradict, no tyranny subvert.

If we enjoy so many glorious advantages above the *Ancients* themselves, it will require but little pains to prove, that no *modern* nation whatever can

seriously be compared with us. Without discussing the peculiar merits of each, let us take a cursory view of a people, who for arts and learning stand unrivalled, as they are fond of boasting, by any state in *Europe*: but, though we should allow them to excel us in a few ornamental arts, yet we will never acknowledge the *French* to be our masters in poetry, musick, or eloquence, much less in ancient literature, which their very *Academies* openly affect to undervalue. Their musick is noisy and offensive to a judicious ear; their poetry, lifeless and insipid; and of eloquence they have not even the idea. It is the object of eloquence, to teach, to move, to persuade: but how can they instruct, when in most branches of knowledge they have need themselves of instruction? Whom should they move or convince, when they can only address themselves to the slaves of the City, or the sycophants of the Court [a]? Even the Mathematicks, on which they are constantly pluming themselves, (could all *Paris* hear me, the truth should be declared) are more scientifically and more perfectly taught in these *Academick* retreats than in the *Louvre* itself; where the geometry of *Euclid*, *Apollonius*, *Archimedes*, the noblest and sublimest effort of the human intellect, has long been

[a] This whole passage is an imitation of *Isocrates*, who speaks of the *Lacedemonians* with the same freedom; and nothing is here said of the *French*, their arts, their contempt of learning, and attachment to monarchy, which their own writers of the first class have not more forcibly expressed.

superfeded

superfeded by the modern *Analyticks*, which, how pleasing soever to an indolent mind, and however useful in some abstruse speculations, are wholly inconsistent with the elegant simplicity of the ancient method; a beautiful specimen of which will soon be brought to light in this University, where the collections of *Pappus* will appear for the first time in their original language, and be studied with the true spirit of the *Pythagorean* and *Alexandrian* Schools.

Let us be modest, however, and prudent in our triumph; and, whatever praises we bestow on the politer studies, let us not so far deceive ourselves, as to imagine, that Learning without Virtue has any merit, though Virtue without Learning may justly claim the highest encomium; let us remember, that the sole purpose and tendency of human knowledge is to make us serviceable to our friends, our country, and all mankind; that speculation is only commendable, as far as it may supply us with Wisdom and Valour in active life, and that all arts, literature, science, cease to be laudable, as soon as they cease to be beneficial.

Contemplation is but the beginning, Action is the continuation, of the work; Independence is the completion of it. Learning and Study are the means, Liberty is the end; and, whatever the old Philosophers might write or argue on the chief good and happiness of man, while some affirmed it to consist in Virtue alone; others, in pleasure and a certain
 serenity

serenity of mind ; others, in a competence of external advantages, together with a virtuous course of life ; it will be found after all, that, without a generous and perfect Liberty, there cannot be a shadow of happiness among men. In this uncertain state of human nature, Liberty is our chief, our only, consolation ; without it the palace of a King has no allurements, and with it a desert or a forest have superiour charms ; nor are examples wanting of learned men, whatever may be insinuated against them by the malevolent or envious, who, on great occasions of trial, have proved themselves true friends to the rights of their fellow-citizens, and have been ready in extremity to assert them even in the field, where they would have acted, as it was said of *Cæsar*, with the same vigour with which they wrote.

Call to your minds three of the greatest men who ever adorned this island, two of whom received their education in our University, *Selden*, *Milton*, *Locke* ; all eminently distinguished for their genius and learning, yet, all strenuous assertors of those free and noble principles, which tend to dignify and exalt the nature of man. The first of them, equal to *Varro* in the vast extent of his knowledge, nor at all inferiour to *Cato* in the greatness of his soul, and the ardour of his zeal for the cause of freedom, was an honour to the Bar, a principal ornament of the Senate ; and, what at once proves the truth of my assertion, in all his valuable books, which now enrich

rich our publick library, he had written with his own hand a sentence breathing the spirit of ancient Greece, and worthy to be inscribed in golden letters on the cieling of this noble edifice, *Above all things, Liberty.*

What a glorious character was *Milton*! how sublime a Poet! how copious an Orator! how profound a Scholar! The miserable times, in which he lived, deprived this great man of the glory, which he must have acquired, if his genius had found room to expand itself in a free air and a favourable climate; for, had he flourished in *Athens*, while *Athens* herself was independent, he would have rivalled *Sophocles* in poetry, *Demosthenes* in eloquence, and even *Socrates* in virtue. Were I to expatiate on the praises of *Locke*, the day itself would fail me, before I could pronounce a panegyrick adequate to his transcendent merit. All *Europe* knows, that, when the minds of men were darkened with the mists of the ignorant ages, when Philosophy was disgraced with innate ideas, substantial forms, and all the jargon of the schoolmen, He first prescribed the limits of human knowledge, and discovered the two great fountains, from which it springs, and, like a vast river flowing from two secret sources, diffuses itself through the whole extent of the creation: but he was not satisfied with surpassing the philosophers of the Lyceum in *Metaphysics* only; he contended with them even in political knowledge; and his

treatise on Government, which the best and wisest of the Ancients would have been proud of composing, will remain a perpetual testimony of his wisdom, learning, virtue, and a full confutation of the audacious charge against men of letters, that, instead of being friends to Liberty, they are the flatterers of power, and the high priests of Oppression.

But if, in any age or country, this calumny has been founded upon a shadow of justice, we know it to be absolutely false and groundless in a place renowned over all *Europe* for the glory of a learned independence.

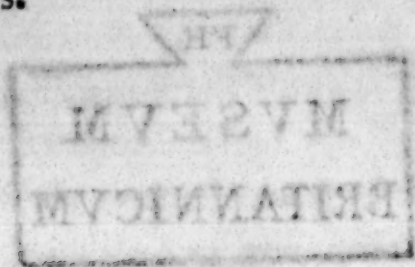
Our Academical Liberty may be considered as a chaste Virgin, whom we have educated in these bowers with a jealous care; we have now intrusted her to a Guardian, whose resolution it will be, not only to view her himself with a modest eye, but to preserve her with incessant vigilance from every presumptuous suitor [b]: he will reflect on the delicacy of his charge; he will set a just value on the honours which we have freely conferred; and, though we have no need to deprecate any attempt against our rights and privileges, which we shall

[b] Nos autem, *Brute*, quoniam orbæ *Eloquentiæ* quasi tutores relictî sumus, domi teneamus eam septam liberali custodiâ; et hos ignotos atque impudentes procos repudiemus, tueamurque, ut adultam *Virginem*, castè, et ab amatorum impetu, quantum possumus, prohibeamus.

Cic. de Clar. Orat.

defend

defend, I trust, by our own strength, yet he will give us the satisfaction to find, that we have not committed our inestimable treasure, the great *Palladium* of our fame and prosperity, to negligent or perfidious hands.



THE END.

defend, I trust, by our own strength, yet he will
 give us the satisfaction to find, that we have not
 committed our inestimable treasure, the great Psy-
 chium of our time and prosperity, to negligent or
 perfidious hands.



THE END

